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8 UNITED STATES DISTRICT COURT  
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
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11 AMERICAN DIAGNOSTIC  
12 MEDICINE, INC.,

13 Plaintiff,

14 v.

15 ROBERT WALDER, PAUL KAPLAN,  
16 and  
DOES 1 through 100, Inclusive,

17 Defendants.

18 PAUL KAPLAN, and ROBERT  
19 WALDER,

20 Counter Claimants,

21 v.

22 AMERICAN DIAGNOSTIC  
23 MEDICINE, INC.

Counter Defendant.

Case No. 07cv2401 W (CAB)

**JOINT MOTION TO DISMISS  
ACTION WITH PREJUDICE**

24 **JOINT MOTION TO DISMISS LAWSUIT WITH PREJUDICE**

25 Plaintiff American Diagnostic Medicine, Inc. ("ADM") and Defendants Robert  
26 Walder and Paul Kaplan hereby submit their Joint Motion to Dismiss the Complaint  
27

1 and Counterclaims with prejudice, and state as follows:

2 1. On December 21, 2007, ADM initiated a lawsuit by filing a complaint,  
3 *American Diagnostic Medicine, Inc., v. Walder and Kaplan*, Cause No. 07cv2401 W  
4 (CAB), in the United States District Court for the Southern District of California.

5 2. On January 11, 2008, Mr. Kaplan filed his answer and a counterclaim  
6 against ADM.

7 3. On February 15, 2008, Mr. Walder filed his answer and a counterclaim  
8 against ADM.

9 4. Mr. Walder and Mr. Kaplan denied the material allegations set forth in  
10 ADM's complaint. Further, ADM denied the material allegations set forth in  
11 Defendant Kaplan's counterclaim and Defendant Walder's counterclaim.

12 5. To avoid the time and expense of continued litigation, ADM, Mr. Walder  
13 and Mr. Kaplan desire to settle their disputes related to ADM's complaint and Mr.  
14 Walder and Mr. Kaplan's counterclaims.

15 IT IS HEREBY STIPULATED AND AGREED, by and between counsel for  
16 the undersigned Parties, that all claims by and between Plaintiff, AMERICAN  
17 DIAGNOSTIC MEDICINE, INC. and Defendants, ROBERT WALDER and PAUL  
18 KAPLAN, have been fully compromised and settled by way of a confidential  
19 settlement. To that end, any and all claims and counterclaims in the captioned lawsuit  
20 by and between Plaintiff and Defendants, arising out of the subject matter of the  
21 captioned litigation, whether or not asserted in this matter, may now be dismissed with  
22 prejudice, the Parties to bear their own costs and attorneys' fees.  
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1 DATED: July 15, 2008

CLAUSEN MILLER P.C.

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3 s/Keith E. Butler  
4 Attorneys for Plaintiff,  
5 AMERICAN DIAGNOSTIC  
6 MEDICINE, INC.  
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8 DATED: July 15, 2008

LUCE, FORWARD, HAMILTON &  
SCRIPPS LLP

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11 s/Micah D. Parzen  
12 Attorneys for Defendant, ROBERT  
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15 DATED: July 15, 2008

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